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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---|---|
| 10/550,047 | 09/21/2005 | Peter Stierle | 3429 | 6199 |
| <div>7590 06/26/2007</div> <div>Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743</div> | | | | |
| | | | <div>EXAMINER</div> <div>LOW, LINDSAY M</div> | |
| | | | <div>ART UNIT</div> <div>3721</div> | <div>PAPER NUMBER</div> |
| | | | <div>MAIL DATE</div> <div>06/26/2007</div> | <div>DELIVERY MODE</div> <div>PAPER</div> |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/550,047 | Applicant(s) STIERLE ET AL. | |
| | Examiner Lindsay M. Low | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's RCE submitted on June 5, 2007.

Information Disclosure Statement

2. Applicant's remarks regarding the statement of relevancy for Swiss document 692,488 is acknowledged. However, as stated in the Final Rejection, no translation of the Swiss document or the search report was provided.

Drawings

3. The drawings were received on June 5, 2007. These drawings are accepted.

Claim Objections

4. Claim 15 is objected to because of the following informalities: the term "once" should be "one." Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 16 recites the limitation "the inlet openings." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3721

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-8, 10, and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Strozel et al (5,099,160) for the same reasons set forth in paragraph 6 of the Final Rejection mailed on March 9th 2007.

It should be noted that the entire end cap to the right of housing 12 is deemed to be a nozzle and therefore abuts the cooling conduit 34. The cooling conduit 34 is separated from the housing by an additional casing (the surrounding integrated bracings). The cooling conduit forms a bypass for the cooling medium, avoiding interference with other components and shares a borderline with the nozzle as seen in Fig. 1. Note that the intake nozzle is formed as one piece with the cooling conduit, i.e. they form a single unit. An additional separate cooling conduit (see Figure) is suppliable with air through inlet openings (see Figure~~1~~).

9. Claims 1-9 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Modrey (2,776,385).

Modrey discloses the same invention including a motor 11, housing 13, intake nozzle in the vicinity of 32, and cooling conduits abut the nozzle (see Fig. 1). It should be noted that the housing is integrally formed with a support plate, outer wall, cover plate, and an additional casing (see Fig. 1). Regarding claim 9, the openings are shown at 61 and 62. Regarding claim 11, since the openings are used as an inlet or an outlet, they are deemed to be differently designed.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strozel (5,099,160) in view of Anton (2,976,436) for the same reasons set forth in paragraph 9 of the Final Rejection, *supra*.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Modrey (2,776,385).

Modrey discloses the same invention substantially as claimed except for a grinder and two differently designed inlet openings. Examiner takes Official Notice that it is well known to provide a grinder with a cooling device for the purpose of ensuring that the tool doesn't overheat. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Modrey's power tool with a grinder in order to facilitate cooling of the grinder.

Conclusion

13. Applicant's remarks have been fully considered and are believed to be addressed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

Art Unit: 3721

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML

6/21/2007



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700